

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

ORDER

Criminal No. 10-187 (2) (MJD)

Hawo Mohamed Hassan,

Defendant.

Jeffrey S. Paulsen, Assistant United States Attorney, counsel for Plaintiff.

Defendant appearing *pro se*.

This matter is before the Court on the Defendant's *pro se* motion for a sentence reduction based on minor role. The Court will construe the motion under 18 U.S.C. § 3582(c)(2).

The Defendant asserts that on November 1, 2105, Amendment 794 to the United States Sentencing Guidelines went into effect. Amendment 794 amended the commentary to § 3B1.2 to provide additional guidance to sentencing courts in determining whether a mitigating role adjustment applies. She argues that pursuant to the non-exhaustive list included in Amendment 794, the Court

should find she is entitled to a reduction for minor role.

The Defendant was sentenced to a term of 120 months on May 16, 2013. Her conviction and sentence were affirmed on appeal. Because the Defendant's conviction and sentence are now final, the Defendant is not entitled to the relief she seeks.

A district court may reduce a previously imposed prison term if the defendant's sentence was "based on a sentencing range that has subsequently been lowered by the Sentencing Commission ... if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. § 3582(c)(2). The Commission has authorized a § 3582(c)(2) reduction if a guidelines amendment that it has declared retroactive lowers the defendant's "applicable guidelines range." U.S.S.G. § 1B1.10(a)(2).

United States v. Thomas, 775 F.3d 982 (8th Cir. 2014). Amendment 794 is not listed in § 1B1.10(d), therefore the Amendment does not apply retroactively in a collateral proceeding. See United States v. Lewis, Crim. No. 14-66 (02), 2016 WL 6601644 at *3 (D. Minn. Nov. 7, 2016); United States v. Shelton, Crim. No. 10-295 (08), 2016 WL 6584908 at *1 (D. Minn. Nov. 4, 2016).

Even if the Amendment could be applied retroactively, the Court notes that the Defendant already received a two level minor role reduction at sentencing. (PSR ¶ 66.) In addition, the Defendant was sentenced to a term of

imprisonment of 120 months, a substantial downward variance from the applicable guideline range of 360 to 372 months. Accordingly, the Court finds the Defendant has made no showing she would be entitled to relief.

IT IS HEREBY ORDERED that the Defendant's Motion for Sentence Reduction [Doc. No. 303] is DENIED.

Date: January 12, 2017

s/ Michael J. Davis

Michael J. Davis

United States District Court